



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

**WRITTEN DETERMINATION APPOINTING
CAREY, SCOTT, DOUGLAS & KESSLER, PLLC AS
OUTSIDE COUNSEL ON BEHALF OF THE GOVERNOR OF WEST VIRGINIA**

The Governor of West Virginia (hereinafter "Governor") is seeking the assistance of outside counsel to assist with currently pending litigation. More specifically, the Governor is seeking legal assistance to defend litigation styled: *G. Issac Sponaugle, III v. James Conley Justice, II*, Case No. 18-0810, currently pending in the Supreme Court of Appeals of West Virginia.

After submitting a proposal in response to Request For Proposals # 71 the law firm of Carey, Scott, Douglas & Kessler, PLLC was selected by the Governor and appointed by Written Determination dated July 10, 2018, to represent the Governor with respect to litigation styled: *G. Issac Sponaugle, III v. James Conley Justice, II*, Civil Action No. 18-P-217, then pending in the Circuit Court of Kanawha County. That civil action was subsequently dismissed by the Circuit Court of Kanawha County and the current proceeding was initiated in the Supreme Court of Appeals. As a result, the Governor's legal interests are now, once again, at issue in this new proceeding. Due to the nature of the Supreme Court of Appeals proceeding, the similarity of the parties and legal interests, Carey, Scott's familiarity with the same, the Governor's continued confidence in Carey, Scott's ability to represent his interests, and in the interests of efficiency and expeditiousness, the law firm of Carey, Scott's appointment to represent the Governor is hereby extended and expanded to include representation of the Governor in *G. Issac Sponaugle, III v. James Conley Justice, II*, Case No. 18-0810, currently pending in the Supreme Court of Appeals of West Virginia.

Based on the factors set forth above, as evaluated by the Governor, the Office of the Attorney General authorizes the appointment of Carey, Scott, Douglas & Kessler, PLLC to serve as outside counsel for the legal matter cited herein pursuant to Section (E) of Policy # WVAGO-004.

A handwritten signature in black ink, appearing to read "Steven A. Travis".

Steven A. Travis
Deputy General Counsel

Date Signed: September 21, 2018

CAREY, SCOTT, DOUGLAS & KESSLER, PLLC
901 Chase Tower
707 Virginia Street, East
P. O. Box 913
Charleston, WV 25323

State of WV-Office of the Attorney General
State Capitol Bldg. 1, Rm. E-26
1900 Kanawha Blvd. East
Charleston WV 25305

Attn: Brian Abraham

RFP #71

I HEREBY CERTIFY THAT THE
ITEMS LISTED HEREON HAVE
BEEN RECEIVED AND APPROVED
FOR PAYMENT

11/19/19 Mary Zippel
Date Name

RFP # 71

C. Isaac Sponaugle, III v. James Conley Justice, II
Civil Action No. 18-P-217

Previous Balance

Page: 1
11/30/2018
Account No: 1647-001M
Statement No: 11683

\$8,270.10

Fees

| | | | Hours | |
|------------|-----|---|-------|----------|
| 10/01/2018 | DRP | Review transcript of August 27, 2018 hearing. | 0.20 | 55.00 |
| | DRP | Review petition for writ of mandamus. | 0.50 | 137.50 |
| | DRP | Review Sponaugle's appendix. | 1.30 | 357.50 |
| | DRP | Telephone call with West Virginia Supreme Court General Counsel. | 0.10 | 27.50 |
| | DRP | Research regarding holding public officials in contempt; conference with Mr. Carey. | 1.10 | 302.50 |
| | LA | Print copies of Sponaugle petition and appendix for Mr. Carey; calendar deadline to file reponse on October 16, 2018. | 0.20 | n/c |
| | MWC | Review petition; conference with Mr. Pogue; review research; conference with Mr. Pogue. | 1.00 | 350.00 |
| 10/02/2018 | DRP | Research regarding mandamus only for nondiscretionary duties. | 1.00 | 275.00 |
| | DRP | Work on response to petition for writ of mandamus. | 4.80 | 1,320.00 |
| 10/03/2018 | DRP | Work on response to petition for writ of mandamus. | 5.80 | 1,595.00 |
| | LA | Reconfigure and print chart from Brian Abraham for Mr. Carey's review. | 0.20 | n/c |
| | MWC | Work on response to petition for mandamus. | 1.70 | 595.00 |
| 10/04/2018 | DRP | Work on response to petition for writ of mandamus. | 2.80 | 770.00 |

RFP #71

| | | | Hours | |
|------------|-----|--|-------|--------|
| | LA | Type Mr. Carey's portion of response to writ; submit draft to Mr. Carey; type additions and revisions; submit draft to Mr. Carey. | 0.30 | n/c |
| | LA | Draft Clerk letter, certificate of service and cover sheet for response to petition for writ of mandamus; draft outline for Table of Contents. | 0.70 | 70.00 |
| | MWC | Review and revise draft response. | 1.10 | 385.00 |
| 10/05/2018 | DRP | Draft affidavit of Brian Abraham. | 0.20 | 55.00 |
| | DRP | Review and mark questions on public appearance chart. | 0.20 | 55.00 |
| | DRP | Email to Brian Abraham. | 0.10 | 27.50 |
| | DRP | Review chart from Brian Abraham. | 0.30 | 82.50 |
| | LA | Type Mr. Carey's additions to response brief; email draft to Mr. Carey. | 0.70 | n/c |
| 10/08/2018 | LA | Organize and tally dates relating to events and the Governor's attendance; submit totals to Mr. Pogue. | 2.00 | n/c |
| 10/09/2018 | DRP | Review and analyze spreadsheet from Brian Anderson. | 1.30 | 357.50 |
| | LA | Join Mr. Carey's section III into response brief; print draft for Mr. Carey's edits. | 0.10 | n/c |
| | MWC | Continue work on response, | 0.70 | 245.00 |
| 10/10/2018 | LA | Check spreadsheet entries of Governor Justice's events; change date formats; submit information to Mr. Pogue. | 1.20 | n/c |
| | LA | Revise and edit Table of Contents and Table of Authorities for client's response brief; review brief. | 1.50 | n/c |
| | DRP | Work on response brief. | 1.10 | 302.50 |
| 10/11/2018 | LA | Check Table of Contents and Table of Authorities. | 0.60 | n/c |
| | LA | Continue work on Table of Contents and Table of Authorities for client's response brief. | 2.20 | 220.00 |
| | DRP | Review <i>State ex rel. Workman v. Carmichael, et al.</i> | 1.00 | 275.00 |
| 10/12/2018 | DRP | Work on response brief. | 2.80 | 770.00 |
| | DRP | Research regarding political question doctrine. | 0.70 | 192.50 |
| 10/15/2018 | DRP | Research regarding mandamus for abuse of discretion; revise and edit response brief. | 1.60 | 440.00 |
| | DRP | Research regarding political question doctrine. | 2.00 | 550.00 |
| | DRP | Review and edit response brief; add political question argument. | 1.00 | 275.00 |
| | DRP | Review articles from Brian Abraham. | 0.70 | 192.50 |
| 10/16/2018 | DRP | Review articles from Brian Abraham. | 0.50 | 137.50 |
| | DRP | Review and edit response brief; add citations to appendix. | 1.80 | 495.00 |

RFP #71

| | | | Hours | |
|------------|-----|---|-------|-----------|
| | LA | Scan and Bates number appendix; draft appendix cover, certification and Table of Contents; merge all into one document; prepare same for filing; review brief and check Table of Contents and Table of Authorities cites. | 1.80 | n/c |
| | LA | Finalize Table of Authorities for brief; mail same to Sponaugle; hand deliver to Supreme Court. | 2.40 | n/c |
| | MWC | Work on brief; review newspaper articles; review, revise and finalize brief. | 1.60 | 560.00 |
| 10/25/2018 | DRP | Research regarding issues raised by Nigel Jeffries. | 0.70 | 192.50 |
| | | For Current Services Rendered | 42.60 | 11,665.00 |
| | | Total Non-billable Hours | 11.00 | |

Recapitulation

| <u>Timekeeper</u> | <u>Hours</u> |
|-------------------|--------------|
| Michael W. Carey | 6.10 |
| David R. Pogue | 33.60 |
| Paralegal | 2.90 |

Total Current Work

11,665.00

Payments

| | | |
|------------|--|--------------------|
| 11/21/2018 | Payment for Advances - State of West Virginia Check#1003989202 for Statement #11584. | -100.10 |
| 11/21/2018 | Payment for Fees - State of West Virginia Check#1003989202 for Statement #11584. | -7,260.00 |
| 11/21/2018 | Payment for Fees - State of West Virginia Check #1003989202 for Statement #11619. | -910.00 |
| | Total Payments | -8,270.10 |
| | Balance Due | <u>\$11,665.00</u> |